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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13
14 GREGORY A. BROUCKAERT,
15 Plaintiff,

16 v.

17 CAROLYN W. COLVIN,
18 Acting Commissioner of Social
19 Security,
20 Defendant.
21
22

Case No. 13-cv-1486 BAS (BGS)

ORDER:

- (1) **ADOPTING REPORT AND
RECOMMENDATION IN
ITS ENTIRETY;**
(2) **DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT; AND**
(3) **GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

(ECFs 20, 10, 15-1)

23 On June 27, 2013, Plaintiff Gregory Brouckaert, filed a complaint pursuant
24 to the Social Security Act, 42 U.S.C. § 405(g), challenging the Commissioner of
25 the Social Security Administration's denial of disability benefits. ECF 1. On
26 September 19, 2013, the Commissioner filed an answer. ECF 7. On October 25,
27 2013, Brouckaert filed a motion for summary judgment, requesting reversal of the
28 Administrative Law Judge's final decision. ECF 10. The Commissioner filed a

1 cross-motion for summary judgment and opposed Brouckaert's motion. ECFs 15-
 2 1, 16. The Commissioner argued that the Administrative Law Judge's decision
 3 was supported by substantial evidence, free from legal error, and should be
 4 affirmed.

5 On July 10, 2014, United States Magistrate Judge Bernard G. Skomal issued
 6 a Report and Recommendation ("Report") recommending that this Court grant the
 7 Commissioner's motion for summary judgment and deny Brouckaert's motion.
 8 ECF 20. Judge Skomal ordered any objections to be filed by July 25, 2014, and
 9 any replies by August 1, 2014. To date, no objections have been filed, and neither
 10 party has requested additional time to do so.


11 The Court reviews *de novo* those portions of the R&R to which objections
 12 are made. 28 U.S.C. § 636(b)(1). The Court may "accept, reject, or modify, in
 13 whole or in part, the findings or recommendations made by the magistrate judge."
 14 *Id.* But "[t]he statute makes it clear that the district judge must review the
 15 magistrate judge's findings and recommendations *de novo* if objection is made, but
 16 not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)
 17 (en banc) (emphasis in original); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d
 18 1219, 1226 (D. Ariz. 2003) (concluding that where no objections were filed, the
 19 district court had no obligation to review the magistrate judge's report). "Neither
 20 the Constitution nor the statute requires a district judge to review, *de novo*,
 21 findings and recommendations that the parties themselves accept as correct." *Id.*
 22 "When no objections are filed, the *de novo* review is waived." *Marshall v. Astrue*,
 23 No. 08cv1735, 2010 WL 841252, at *1 (S.D. Cal. Mar. 10, 2010) (Lorenz, J.)
 24 (adopting report in its entirety without review because neither party filed
 25 objections to the report despite the opportunity to do so).

26 In this case, the deadline for filing objections was on July 25, 2014.
 27 However, no objections have been filed, and neither party has requested additional
 28 time to do so. Consequently, the Court may adopt the R&R on that basis alone.

1 *See Reyna-Tapia*, 328 F.3d at 1121. Having nonetheless conducted a *de novo*
2 review of Brouckaert's and the Commissioners motions for summary judgment,
3 the Court hereby approves and **ADOPTS** the report in its entirety (ECF 20), and
4 **GRANTS** the Commissioner's motion for summary judgment (ECF 15-1). The
5 Court **DENIES** Brouckaert's motion for summary judgment. ECF 10. Moreover,
6 because reasonable jurists would not find the Court's assessment of the claims
7 debatable or wrong, the Court **DENIES** a certificate of appealability. *See Slack v.*
8 *McDaniel*, 529 U.S. 473, 484 (2000).

9 **IT IS SO ORDERED.**

10
11 **DATED: August 4, 2014**


12 **Hon. Cynthia Bashant**
13 **United States District Judge**